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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 DARREN ROY MACK, Case No. 3:18-cv-00324-RCJ-VPC  
10 v. Petitioner,  
11 RENEE BAKER, et al.,  
12 Respondents.

ORDER

13 Petitioner Darren Roy Mack has submitted a *pro se* petition for writ of habeas  
14 corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). As he has paid the filing fee, his  
15 two applications to proceed *in forma pauperis* are denied as moot. The court has  
16 reviewed the petition pursuant to Habeas Rule 4, and it shall be docketed and served  
17 on respondents.

18 A petition for federal habeas corpus should include all claims for relief of which  
19 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be  
20 forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C.  
21 §2254(b) (successive petitions). If petitioner is aware of any claim not included in his  
22 petition, he should notify the court of that as soon as possible, perhaps by means of a  
23 motion to amend his petition to add the claim.

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25 **IT IS THEREFORE ORDERED** that petitioner's two application to proceed *in*  
26 *forma pauperis* (ECF Nos. 1 and 3) are both **DENIED** as moot.  
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1           **IT IS FURTHER ORDERED** that the Clerk shall file and **ELECTRONICALLY**  
2           **SERVE** the petition (ECF No. 1-1) on the respondents.

3           **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada  
4           Attorney General, as counsel for respondents.

5           **IT IS FURTHER ORDERED** that respondents shall file a response to the  
6           amended petition, including potentially by motion to dismiss, within **ninety (90) days** of  
7           service of the petition, with any requests for relief by petitioner by motion otherwise  
8           being subject to the normal briefing schedule under the local rules. Any response filed  
9           shall comply with the remaining provisions below, which are entered pursuant to  
10          Habeas Rule 5.

11          **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents  
12          in this case shall be raised together in a single consolidated motion to dismiss. In other  
13          words, the court does not wish to address any procedural defenses raised herein either  
14          *in seriatum* fashion in multiple successive motions to dismiss or embedded in the  
15          answer. Procedural defenses omitted from such motion to dismiss will be subject to  
16          potential waiver. Respondents shall not file a response in this case that consolidates  
17          their procedural defenses, if any, with their response on the merits, except pursuant to  
18          28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If  
19          respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall  
20          do so within the single motion to dismiss not in the answer; and (b) they shall  
21          specifically direct their argument to the standard for dismissal under § 2254(b)(2) set  
22          forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no  
23          procedural defenses, including exhaustion, shall be included with the merits in an  
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answer. All procedural defenses, including exhaustion, instead must be raised by motion to dismiss.

**IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents shall specifically cite to and address the applicable state court written decision and state court record materials, if any, regarding each claim within the response as to that claim.

**IT IS FURTHER ORDERED** that petitioner shall have **forty-five (45) days** from service of the answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for relief by respondents by motion otherwise being subject to the normal briefing schedule under the local rules.

**IT IS FURTHER ORDERED** that any additional state court record exhibits filed herein by either petitioner or respondents shall be filed with a separate index of exhibits identifying the exhibits by number. The CM/ECF attachments that are filed further shall be identified by the number of the exhibit in the attachment.

**IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of all exhibits in this case to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed to the attention of "Staff Attorney" on the outside of the mailing address label. Additionally, in the future, all parties shall provide courtesy copies of any additional exhibits submitted to the court in this case, in the manner described above.

DATED: September 25, 2018.

**ROBERT C. JONES  
UNITED STATES DISTRICT JUDGE**